IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

FAO.No. 290 of 2007()

AGAINST THE ORDER DATED 12/09/2007 IN IA 3023/2007 IN OS.41/2007 of II ADDL.DISTRICT COURT,ERNAKULAM

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APPELLANT-RESPONDENT-DEFENDANT

SOBY GEORGE, AGED 40 YEARS, S/O. KORA GEORGE, KAKKANAD VEETTIL, NELLIMATTOM KARA, KOTHAMANGALAM VILLAGE, KOTHAMANGALAM TALUK.

BY ADV. SRI.T.M.RAMAN KARTHA
SRI.K.G.RAJANIKANTH

RESPONDENTS: PETITIONER-PLAINTIFF

"KALABHAVAN", COCHIN, A SOCIETY REGD. UNDER THE ACT 12 OF 1955, HAVING PRINCIPAL PLACE OF BUSINESS AT KALABHAVAN BLDGS. KALABHAVAN ROAD, KOCHI-18,REP.BY ITS PRESIDENT SRI.JAMES KULATHING-GAL, S/O.PHILIPOSE, R/AT JAMESPHIL COMPLEX, SOUTH KALAMASSERY, CHANGAMPUZHA NAGAR PO., PIN-682 033.

BY ADV. SRI.P.N.RAMAKRISHNAN NAIR
SRI.P.VISWANATHAN

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

F.A.O.No.290 OF 2007

Dated this the 10th December, 2007.

J U D G M E N T

This appeal is filed against an order of injunction passed by the trial court restraining the appellant from using the words 'Kalabhavan Academy' or 'Fr.Abel's Cochin Kalabhavan' or any other combination of names and trade marks for the programmes.

2. When the appeal came up for hearing, this Court has made a suggestion that the parties shall make an endeavour to make an interim arrangement. Appellant had agreed to deposit an amount of Rupees Five Lakhs. An amount of Rupees Three Lakhs was deposited in the Federal Bank, Pachalam Branch No.10/75, on 26.11.2007, and a further amount of Rupees Two Lakhs on 4.12.2007 in the same bank. It is true that in the fixed deposits, the lien of the court was not noted. The appellant shall produce the F.D. Receipts before the trial court for keeping the same under safe custody. I am of the view that the either the appellant or the respondent can produce a

copy of this judgment before the Manager of the Bank, who shall note the lien of the Court on the fixed deposits made. On production of the F.D. receipts, the court below shall also inform the bank about the lien.

3. Accordingly, the appeal is disposed of permitting the appellant to use the name till 31.3.2008, subject to the following conditions:-

(1) The appellant shall produce F.D. Receipts for Rs.5 lakhs before the court below, within two weeks from the date of receipt of the copy of the judgment, and the court below shall keep the same under safe custody. In case, the trial of the case is not over before the period of maturity, it shall be the duty of the appellant to renew the F.D. Receipts from time to time.

(2) The appellant shall pay an amount of Rs.25,000/= per mensem from 1.7.2007 to the respondent. The amount shall be paid on or before 10th of every month.

(3) The arrears so far accrued shall be paid within two weeks from the date of receipt of the copy of the judgment.

(4) In case the appellant commits any default or withdraw the amount already deposited, without the orders of the court below, these interim arrangement will seize to exist, and the Order of Injunction passed by the trial court will revive.

(5) The question as to who is entitled to the amount deposited will be decided by the trial court, and the amount deposited can be withdrawn, in accordance with the decision of the court below.

(6) The Trial Court shall dispose of the suit itself, as expeditiously as possible, at any rate, within 31.3.2008.

K.PADMANABHAN NAIR,
JUDGE

nj.